

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

**TERRI PECHNER-JAMES and SONIA
FERNANDEZ,**
Plaintiffs,

v.

**CITY OF REVERE, THOMAS AMBROSINO,
MAYOR, CITY OF REVERE POLICE
DEPARTMENT, TERRENCE REARDON,
CHIEF OF POLICE, BERNARD FOSTER,
SALVATORE SANTORO, ROY COLANNINO,
FREDERICK ROLAND, THOMAS DOHERTY,
JOHN NELSON, JAMES RUSSO, MICHAEL
MURPHY and STEVEN FORD,**
Defendants,

FILED
CLERK'S OFFICE
DISTRICT COURT
DISTRICT OF MASS.

C.A. No. 03-12499-MLW

**AFFIDAVIT OF WALTER H. PORR, JR., IN SUPPORT OF DEFENDANTS'
OPPOSITION TO PLAINTIFF'S "APPEAL" OF REPORT AND RECOMMENDATION
ON SUMMARY JUDGMENT DOCKET NOS. 29 AND 37 PURSUANT TO RULE 72**

I, Walter H. Porr, Jr., do hereby depose and state:

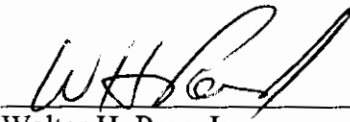
1. I am an Assistant City Attorney for the City of Revere and have been so employed since December 13, 2004. I am an attorney of record for Defendants, City of Revere, City of Revere Police Department, Mayor Thomas Ambrosino and Chief of Police Terence Reardon in this action.
2. On October 26, 2005, I received ECF Notifications of the Plaintiffs' Objections to the Magistrate Judges rulings in this case as reflected by Docket Nos 87 and 88. A true and accurate copy of said ECF Notifications is attached hereto as Exhibit "A". As is my practice, I immediately downloaded the pleadings in question, Docket Nos. 90 and 91. True and accurate copies of these pleadings are attached hereto as Exhibits "B" and "C" respectively.
3. A review of the electronically transmitted pleadings (Exhibit "B" hereto) reveals that, with the exception of an insignificant exhibit notwithstanding, they are identical. Thus, on November 1, 2005, I filed a joint opposition to these pleadings (Docket No. 92).
4. On November 7, 2005, I received an ECF notification that a correction had been made with respect to Docket No. 90. A true and accurate copy of said ECF Notification is attached hereto as Exhibit "D". As is my practice, I immediately

downloaded this pleading, which appeared to me to be identical to the previously filed pleading. Because of this similarity, I also downloaded another copy of Docket No 91. True and accurate copies of these pleadings are attached hereto as Exhibits "E" and "F" respectively. Because these pleadings looked to be the same, as they had been previously, I took no action.

5. On November 29, 2005, I attended a Status Conference in this case before Magistrate Judge Sorokin. During the course of this Status Conference, I made reference to the fact that Plaintiffs had served interrogatories upon Defendants Ambrosino and Reardon, but that in light of the Magistrates findings and recommendations granting their motions for summary judgment and in light of the further fact that Plaintiffs had not objected to these findings and recommendations, that such interrogatories were improper. At no time during this hearing did Plaintiffs' Counsel indicate that he had in fact filed objections to the Magistrates findings and recommendations in this regard. In fact, Plaintiffs' Counsel concurred with the Magistrate Judge that should the District Judge adopt the findings and recommendations granting the motions for summary judgment, that no answers would be required since these defendants would no longer be parties to the case.
6. On November 30, 2005, I received a phone call from Defense Counsel for the individual officers in this case informing me that objections to the Magistrate Judges findings and recommendations had indeed been filed as part of Docket No. 90. Upon further review of the pleadings associated with this Docket No., I discovered for the first time that the Plaintiff objections had been appended to the original pleading and had not been separately docketed in its own right. Given the way these documents were electronically filed, I was both misled and confused by them and did not realize that Plaintiffs objections had been appended to Docket No. 90.

Signed under the pains and penalties of perjury this 1st day of December, 2005.

Respectfully submitted,

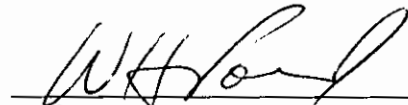

Walter H. Porr, Jr.

CERTIFICATE OF SERVICE

I, Walter H. Porr, Jr., Assistant City Solicitor and counsel of record for the Defendants, City of Revere, City of Revere Police Department, Mayor Thomas Ambrosino and Police Chief Terence Reardon, hereby certify that I have, this day forwarded a copy of the foregoing Affidavit of Walter H. Porr, Jr., in Support of Defendants' Opposition to Plaintiffs' "Appeal" of Report and Recommendation on Summary Judgment Dockets Nos. 29 and 37 Pursuant to Rule 72, to all parties herein by mailing same, this date, via first class mail, postage prepaid to:

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and Steven Ford



Walter H. Porr, Jr.,

Dated: December 2, 2005